



General Assembly

January Session, 2005

Raised Bill No. 1184

LCO No. 3950

* _____SB01184ENVJUD032905_____*

Referred to Committee on Environment

Introduced by:
(ENV)

***AN ACT CONCERNING THE CONTROL AND SECURITY OF
RADIOACTIVE MATERIAL.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 22a-151 of the general statutes is amended by
2 adding subdivisions (9) and (10) as follows (*Effective October 1, 2005*):

3 (NEW) (9) "Radioactive materials" means any solid, liquid or gas
4 that emits ionizing radiation spontaneously.

5 (NEW) (10) "Commissioner" means the Commissioner of
6 Environmental Protection or a designee or agent of the Commissioner
7 of Environmental Protection.

8 Sec. 2. Section 22a-152 of the general statutes is repealed and the
9 following is substituted in lieu thereof (*Effective October 1, 2005*):

10 The Governor, or the commissioner, on behalf of this state, is
11 authorized to enter into agreements with the government of the United
12 States providing for discontinuance of certain of the programs of the
13 government of the United States with respect to sources of ionizing
14 radiation and the assumption thereof by this state, as provided for in

15 the Atomic Energy Act of 1954, as amended.

16 Sec. 3. Section 22a-153 of the general statutes is repealed and the
17 following is substituted in lieu thereof (*Effective October 1, 2005*):

18 (a) The [Commissioner of Environmental Protection] commissioner
19 shall supervise and regulate in the interest of the public health and
20 safety the use of ionizing radiation within the state.

21 (b) [Said] The commissioner may employ, subject to the provisions
22 of chapter 67, and prescribe the powers and duties of such persons as
23 may be necessary to carry out the provisions of sections 22a-151 to 22a-
24 158, inclusive, as amended by this act.

25 (c) [Said] The commissioner shall [make such regulations as may be
26 necessary to carry out the provisions of said sections] adopt
27 regulations, in accordance with the provisions of chapter 54, regarding
28 sources of ionizing radiation and radioactive materials, including, but
29 not limited to:

30 (1) Regulations necessary to secure agreement state status from the
31 Nuclear Regulatory Commission pursuant to Section 274 of the Atomic
32 Energy Act of 1954, 42 USC 2021, as amended;

33 (2) Regulations relating to the construction, operation, control,
34 tracking, security or decommissioning of sources of ionizing radiation,
35 including, but not limited to, any modification or alteration of such
36 sources;

37 (3) Regulations relating to the production, transportation, use,
38 storage, possession, management, treatment, disposal or remediation
39 of radioactive materials;

40 (4) Regulations relating to planning for and responding to terrorist
41 or other emergency events, or the potential for such events, that
42 involve or may include radioactive materials;

43 (5) Regulations as may be necessary to carry out the provisions of

44 sections 22a-151 to 22a-158, inclusive, as amended by this act; and

45 (6) Regulations establishing fees for the licensure of sources of
46 ionizing radiation, which fees, in conjunction with the fees collected
47 pursuant to section 22a-148 shall be sufficient for the administration,
48 implementation and enforcement of an ionizing radiation program.

49 (d) The Governor or the commissioner is authorized to employ such
50 consultants, experts and technicians as [he shall deem] necessary for
51 the purpose of conducting investigations and reporting [to him] on
52 matters connected with the implementation of the provisions of [said
53 sections] sections 22a-148 to 22a-158, inclusive, as amended by this act.

54 (e) There is established within the Environmental Quality Fund
55 established under section 22a-27g an account to be known as the
56 "ionizing radiation management account". Notwithstanding the
57 provisions of section 22a-27g, any moneys collected in accordance with
58 section 22a-148, or 22a-150, or any regulations adopted in accordance
59 with subsection (c) of this section, shall be deposited in the
60 Environmental Quality Fund and credited to the ionizing radiation
61 management account. Any balance remaining in the account at the end
62 of any fiscal year shall be carried forward in the account for the fiscal
63 year next succeeding. Said account may also receive moneys from
64 other sources. The account shall be available to the commissioner to
65 implement, administer and enforce (1) the ionizing radiation program,
66 or (2) the provisions of sections 22a-148 to 22a-158, inclusive, as
67 amended by this act, and section 9 of this act, or any regulations or
68 guidelines adopted pursuant to said sections. Nothing in this
69 subsection shall prevent the commissioner from obtaining or using
70 funds from sources other than the ionizing radiation management
71 account for the purposes of implementing, administering, and
72 enforcing an ionization radiation program.

73 (f) The commissioner may establish radiation exposure guidelines
74 for emergency responders and the public for the management of
75 terrorist events or other emergencies involving radioactive materials.

76 Any such guidelines may be based upon the recommendations of the
77 federal government and the National Council on Radiation Protection
78 and Measurements.

79 Sec. 4. Subsection (a) of section 22a-154 of the general statutes is
80 repealed and the following is substituted in lieu thereof (*Effective*
81 *October 1, 2005*):

82 (a) The [Commissioner of Environmental Protection may provide by
83 regulation for] commissioner may adopt regulations, in accordance
84 with the provisions of chapter 54, for the general or specific licensing
85 of [by-product, source, special nuclear materials and other] sources of
86 ionizing radiation. [, or devices or equipment utilizing such materials,
87 and for amendment, suspension, or revocation of licenses issued
88 pursuant thereto.] The commissioner may issue, deny, renew, modify,
89 suspend or revoke such licenses and may include such terms and
90 conditions in such licenses that the commissioner deems necessary.

91 Sec. 5. Section 22a-155 of the general statutes is repealed and the
92 following is substituted in lieu thereof (*Effective October 1, 2005*):

93 [(a) In any proceeding under sections 22a-151 to 22a-158, inclusive,
94 or any other applicable statute (1) for the issuance or modification of
95 rules and regulations relating to control of sources of ionizing
96 radiation; or (2) for granting, suspending, revoking or amending any
97 license; or (3) for determining compliance with or granting exceptions
98 from rules and regulations of the Commissioner of Environmental
99 Protection, the commissioner or his representative designated in
100 writing shall hold a hearing upon the request of any person whose
101 interest may be affected by the proceeding, and shall admit any such
102 person as a party to such proceeding. Thirty days published notice
103 shall be given of any such hearing.

104 (b) Any final order entered in any proceeding under subsection (a)
105 above shall be subject to judicial review by the Superior Court in the
106 manner prescribed in section 25-36.]

107 (a) The commissioner may issue, modify or revoke orders to (1)
108 abate pollution or a potential source of pollution from ionizing
109 radiation or radioactive materials, or (2) correct violations of sections
110 22a-148 to 22a-150, inclusive, section 22a-153, as amended by this act,
111 22a-154, as amended by this act, 22a-157, as amended by this act, or
112 22a-158, or any regulation adopted or registration or license issued
113 pursuant to said sections. Such orders may include steps necessary to
114 abate pollution or a potential source of pollution, or correct any
115 violation or any other measures the commissioner deems necessary.
116 Such orders may be issued to any person who violates any provision of
117 said sections, or any regulation adopted or registration or license
118 issued pursuant to said sections or to the owner of any land on which
119 the violation occurs, regardless of whether the owner of the land
120 participated in the violation. If two or more persons are issued an
121 order pursuant to this section for the same violation, such persons
122 shall be jointly and severally liable for complying with such order.

123 (b) Each order issued under this section shall be served by certified
124 mail, return receipt requested, or by service by a state marshal or
125 indifferent person. If a state marshal or indifferent person serves the
126 order, a true copy of the order shall be served, and the original, with a
127 return of such service endorsed thereon, shall be filed with the
128 commissioner. The order shall be deemed to be issued upon service or
129 upon deposit in the mail. Any order issued pursuant to this section
130 shall state the basis on which it is issued and shall specify a reasonable
131 time for compliance.

132 (c) Unless a person aggrieved by an order files a written request for
133 a hearing before the commissioner not later than thirty days after the
134 date of issuance, such order shall become final. If so requested, the
135 commissioner shall hold a hearing as soon thereafter as practicable. A
136 request for a hearing shall be a condition precedent to any appeal. The
137 commissioner may, after the hearing or at any time after the issuance
138 of the order, modify such order by agreement or extend the time
139 schedule contained in the order if the commissioner deems such

140 modification or extension advisable or necessary and any such
141 modification or extension shall be deemed to be a revision of an
142 existing order and shall not constitute a new order. There shall be no
143 hearing subsequent to, or any appeal from, any such modification or
144 extension.

145 (d) After the hearing, the commissioner shall consider all
146 supporting and rebutting evidence and may affirm, modify or revoke
147 such order and shall notify the recipient of the order of such action by
148 certified mail, return receipt requested.

149 (e) When the commissioner issues a final order pursuant to this
150 section, the commissioner shall cause a certified copy or notice thereof
151 to be recorded on the land records in the municipality in which the
152 land is located, and such certified copy or notice shall constitute a
153 notice to the owner's heirs, successors and assigns. When the order has
154 been fully complied with or revoked, the commissioner shall issue a
155 certificate acknowledging such compliance or revocation, which
156 certificate the commissioner shall cause to be recorded on the land
157 records in the municipality in which the order was previously
158 recorded.

159 (f) A final order of the commissioner shall be subject to appeal as set
160 forth in sections 4-183 and 4-184, except that any such appeal shall be
161 taken to the superior court for the judicial district of New Britain.

162 Sec. 6. Section 22a-156 of the general statutes is repealed and the
163 following is substituted in lieu thereof (*Effective October 1, 2005*):

164 Whenever, in the judgment of the [Commissioner of Environmental
165 Protection] commissioner, any person has engaged in or is about to
166 engage in (1) any acts or practices which constitute, or will constitute, a
167 violation of any provision of sections [22a-151 to 22a-158, inclusive, or
168 any other applicable statute] 22a-148 to 22a-150, inclusive, sections 22a-
169 153 to 22a-155, inclusive, as amended by this act, section 22a-157, as
170 amended by this act, or 22a-158, or any [rule,] regulation adopted or

171 registration or license or order issued [thereunder, at the request of the
172 Commissioner of Environmental Protection] pursuant to said sections,
173 or (2) any act or omission in which a person has established, created or
174 maintained or will establish, create or maintain an exposure hazard or
175 source of pollution from ionizing radiation or radioactive material,
176 upon the request of the commissioner, the Attorney General [may
177 make application to the appropriate court] shall bring an action in the
178 superior court for the judicial district of Hartford for an order
179 enjoining such acts, [or] practices or omissions, or for an order to
180 control or abate a hazard or source of pollution, or for an order
181 directing compliance and, upon a showing by the commissioner that
182 such person has engaged or is about to engage in any such acts or
183 practices or omissions, a permanent or temporary injunction,
184 restraining order or other order may be granted. Any such action
185 brought by the Attorney General pursuant to this section shall have
186 precedence in the order of trial as provided for in section 52-191.

187 Sec. 7. (NEW) (*Effective October 1, 2005*) (a) Any person who violates
188 any provision of sections 22a-148 to 22a-150, inclusive, sections 22a-153
189 to 22a-155, inclusive, section 22a-157 or 22a-158 of the general statutes,
190 as amended by this act, or any regulation adopted or license or order
191 issued pursuant to said sections, or any owner of land who permits
192 such violations to occur on such owner's land, shall be assessed a civil
193 penalty of not more than ten thousand dollars per day for each offense.
194 Each violation shall be a separate and distinct offense and, in the case
195 of a continuing violation, each day's continuance thereof shall be
196 deemed a separate and distinct offense. If two or more persons are
197 responsible for such violation, such persons shall be jointly and
198 severally liable under this section. The Attorney General, upon request
199 of the Commissioner of Environmental Protection, shall institute a civil
200 action in the superior court for the judicial district of Hartford to
201 recover such penalty. Any such action brought by the Attorney
202 General pursuant to this section shall have precedence in the order of
203 trial as provided for in section 52-191 of the general statutes. For the
204 purposes of this section, "person" includes, but is not limited to, any

205 responsible corporate officer or municipal official.

206 (b) Any person who, with criminal negligence, violates any
207 provision of sections 22a-148 to 22a-150, inclusive, sections 22a-153 to
208 22a-155, inclusive, section 22a-157 or 22a-158 of the general statutes, as
209 amended by this act, or any regulation adopted or license or order
210 issued pursuant to said sections shall be fined not more than twenty-
211 five thousand dollars per day for each violation or be imprisoned not
212 more than one year, or both. A subsequent conviction for any such
213 violation shall carry a fine of not more than fifty thousand dollars per
214 day for each day of violation or imprisonment for not more than two
215 years, or both. Each violation shall be a separate and distinct offense,
216 and, in the case of a continuing violation, each day a violation
217 continues shall be deemed to be a separate and distinct offense.

218 (c) Any person who knowingly violates any provision of sections
219 22a-148 to 22a-150, inclusive, sections 22a-153 to 22a-155, inclusive,
220 section 22a-157 or 22a-158 of the general statutes, as amended by this
221 act, or any regulation adopted or license or order issued pursuant to
222 said sections shall be fined not more than fifty thousand dollars per
223 day for each day of violation or be imprisoned not more than three
224 years, or both. A subsequent conviction for any such violation shall
225 carry a fine of not more than one hundred thousand dollars per day for
226 each day of violation or imprisonment for not more than ten years, or
227 both. Each violation shall be a separate and distinct offense, and, in the
228 case of a continuing violation, each day a violation continues shall be
229 deemed to be a separate and distinct offense.

230 (d) Any person who knowingly makes a false statement,
231 representation or certification in an application, record, report, plan or
232 other document filed or required to be maintained under sections 22a-
233 148 to 22a-150, inclusive, sections 22a-153 to 22a-155, inclusive, section
234 22a-157 or 22a-158 of the general statutes, as amended by this act, or
235 any regulation adopted or license or order issued pursuant to said
236 sections, or who falsifies, tampers with, or knowingly renders
237 inaccurate any monitoring device or method required to be maintained

238 under said sections, or any regulation adopted or registration, license
 239 or order issued pursuant to said sections, shall, upon conviction, be
 240 fined not more than twenty-five thousand dollars per day for each
 241 violation or imprisoned not more than two years for each violation, or
 242 both. Each violation shall be a separate and distinct offense, and, in the
 243 case of a continuing violation, each day a violation continues shall be
 244 deemed to be a separate and distinct offense. For the purposes of this
 245 subsection, "person" includes, but is not limited to, any responsible
 246 corporate officer or municipal official.

247 Sec. 8. Section 22a-157 of the general statutes is repealed and the
 248 following is substituted in lieu thereof (*Effective October 1, 2005*):

249 No person shall construct, operate, use, manufacture, produce,
 250 transport, transfer, receive, acquire, decommission, own or possess any
 251 source of ionizing radiation, [unless exempt, licensed or registered in
 252 accordance with the provisions of sections 22a-151 to 22a-158,
 253 inclusive] unless such activity is in compliance with all requirements of
 254 this chapter, including any regulations adopted, or registration or
 255 license issued under this chapter. No person shall produce, transport,
 256 store, possess, manage, treat, remediate, or dispose of any radioactive
 257 materials, unless such activity is in compliance with all requirements
 258 of this chapter including any regulations adopted, or registration or
 259 license issued under this chapter. No person shall fail to register a
 260 source of ionizing radiation required to be registered under this
 261 chapter, including any regulations adopted, or registration or license
 262 issued under this chapter.

263 Sec. 9. (NEW) (*Effective October 1, 2005*) (a) If a person causes or is
 264 responsible for any exposure hazard or potential exposure hazard
 265 from radioactive materials, radioactive waste, or a source of ionizing
 266 radiation, or causes or is responsible for pollution, contamination or
 267 potential pollution or contamination of any land, water, air or other
 268 natural resource of the state through a discharge, spillage,
 269 uncontrolled loss, release, leakage, seepage, or filtration of radioactive
 270 material or radioactive waste, and who does not act immediately to

271 prevent, abate, contain, mitigate or remove such hazard, potential
272 hazard, pollution, contamination, or potential pollution or
273 contamination, to the satisfaction of the Commissioner of
274 Environmental Protection, or if such person is unknown, and such
275 hazard, potential hazard, pollution, contamination, or potential
276 pollution or contamination, is not being prevented, abated, contained,
277 mitigated or removed by the federal government, a state agency, a
278 municipality or a regional or interstate authority, the commissioner
279 may take steps he or she deems necessary to protect human health and
280 the environment including, but not limited to, investigating,
281 monitoring, abating, containing, mitigating, or removing such hazard,
282 potential hazard, pollution, contamination, or potential pollution or
283 contamination. The commissioner may enter into a contract with any
284 person for the purpose of carrying out the provisions of this
285 subsection.

286 (b) Any person who causes or is responsible for any exposure
287 hazard or potential exposure hazard from radioactive materials,
288 radioactive waste, or a source of ionizing radiation or who causes or is
289 responsible for pollution, contamination, or potential pollution or
290 contamination of any land, water, air or other natural resource of the
291 state through a discharge, spillage, uncontrolled loss, release, leakage,
292 seepage, or filtration of radioactive material or radioactive waste shall
293 be liable for all costs and expenses incurred by the commissioner
294 pursuant to subsection (a) of this section, including all costs and
295 expenses to restore the air, water, land and other natural resources of
296 the state, and shall be liable for all attorneys fees, court costs and any
297 other legal expenses incurred by the state regarding the recovery of
298 such costs. Nothing in this subsection shall preclude the commissioner
299 from seeking additional compensation or such other relief that a court
300 may award, including punitive damages. When such hazard, potential
301 hazard, pollution, contamination or potential pollution or
302 contamination results from the action or inaction of more than one
303 person, each person shall be held jointly and severally liable for such
304 costs. Upon request of the commissioner, the Attorney General shall

305 bring a civil action to recover all such costs and expenses from the
306 person who caused or is responsible for any hazard, potential hazard,
307 pollution, contamination or potential pollution or contamination.

308 (c) Any person who prevents, abates, contains, removes or mitigates
309 any (1) exposure hazard or potential exposure hazard from radioactive
310 materials, radioactive waste, or a source of ionizing radiation that is
311 not authorized by regulation, registration or license, or (2) any
312 pollution or contamination or potential pollution or contamination of
313 any land, water, air or other natural resources of the state through a
314 discharge, spillage, uncontrolled loss, release, leakage, seepage, or
315 filtration of radioactive material or radioactive waste that is not
316 authorized by regulation, registration or license, shall be entitled to
317 reimbursement of the reasonable costs incurred or expended for such
318 abatement, containment, removal, or mitigation from any person
319 whose negligent, reckless, or intentional action or inaction caused such
320 hazard, potential hazard, pollution, contamination or potential
321 pollution or contamination. When such hazard, potential hazard,
322 pollution, contamination or potential pollution or contamination
323 results from the action or inaction of more than one person, each
324 person shall be held jointly and severally liable for such costs.

325 (d) Whenever the commissioner incurs contractual obligations in
326 carrying out the duties of subsection (a) of this section and the person
327 who causes or is responsible for the hazard, potential hazard,
328 pollution, contamination or potential pollution or contamination does
329 not assume such contractual obligations, the commissioner shall
330 request the Attorney General to bring a civil action pursuant to
331 subsection (a) of this section to recover the costs and expenses of such
332 contractual obligations and other costs and expenses provided for in
333 subsection (b) of this section. If any such person is unknown, the
334 commissioner shall request the federal government to assume such
335 contractual obligations to the extent provided for by federal law.

336 Sec. 10. Subsection (a) of section 22a-6a of the general statutes is
337 repealed and the following is substituted in lieu thereof (*Effective*

338 *October 1, 2005*):

339 (a) Any person who knowingly or negligently violates any
 340 provision of section 14-100b or 14-164c, subdivision (3) of subsection
 341 (b) of section 15-121, section 15-171, 15-172, 15-175, 22a-5, 22a-6 or 22a-
 342 7, chapter 440, chapter 441, section 22a-69 or 22a-74, subsection (b) of
 343 section 22a-134p, section 22a-148 to 22a-150, inclusive, 22a-153, 22a-
 344 154, as amended by this act, 22a-157, as amended by this act, 22a-158,
 345 22a-162, 22a-171, 22a-174, 22a-175, 22a-177, 22a-178, 22a-181, 22a-183,
 346 22a-184, 22a-190, 22a-208, 22a-208a, 22a-209, 22a-213, 22a-220, 22a-225,
 347 22a-231, 22a-336, 22a-342, 22a-345, 22a-346, 22a-347, 22a-349a, 22a-358,
 348 22a-359, 22a-361, 22a-362, 22a-365 to 22a-379, inclusive, 22a-401 to 22a-
 349 411, inclusive, 22a-416, 22a-417, 22a-424 to 22a-433, inclusive, 22a-447,
 350 22a-449, 22a-450, 22a-451, 22a-454, 22a-458, 22a-461, 22a-462 or 22a-471,
 351 or any regulation, order or permit adopted or issued thereunder by the
 352 Commissioner of Environmental Protection shall be liable to the state
 353 for the reasonable costs and expenses of the state in detecting,
 354 investigating, controlling and abating such violation. Such person shall
 355 also be liable to the state for the reasonable costs and expenses of the
 356 state in restoring the air, waters, lands and other natural resources of
 357 the state, including plant, wild animal and aquatic life to their former
 358 condition insofar as practicable and reasonable, or, if restoration is not
 359 practicable or reasonable, for any damage, temporary or permanent,
 360 caused by such violation to the air, waters, lands or other natural
 361 resources of the state, including plant, wild animal and aquatic life and
 362 to the public trust therein. Institution of a suit to recover for such
 363 damage, costs and expenses shall not preclude the application of any
 364 other remedies.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2005</i>	22a-151
Sec. 2	<i>October 1, 2005</i>	22a-152
Sec. 3	<i>October 1, 2005</i>	22a-153
Sec. 4	<i>October 1, 2005</i>	22a-154(a)

Sec. 5	<i>October 1, 2005</i>	22a-155
Sec. 6	<i>October 1, 2005</i>	22a-156
Sec. 7	<i>October 1, 2005</i>	New section
Sec. 8	<i>October 1, 2005</i>	22a-157
Sec. 9	<i>October 1, 2005</i>	New section
Sec. 10	<i>October 1, 2005</i>	22a-6a(a)

ENV***Joint Favorable C/R*****JUD**